M. L 17/11/06 p32

Previous references 1905

1906.

(Municipal)

File No 372-05

Serial Nos. 1—8

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos 1—8

Part B for November 1906

SUBJECT

Exemption of carts employed by the Military Department from payment of tolls

G R. S. 55

1905-06

GENERAL AND REVENUE SECRETARIAT

(Mk.)

NOTES.

File No 372-05

FILE HEADING

Exemption of Cards engaged by the Military and from payment of tolls

The President Munl: Commission, Bangalore City

No. 268 Dated 23rd Decr 05 Received 5th January 1906

432	Enclos – Spare Copies. –	Serial No 1

BRIEF ABSTRACT OF LETTER.

Explains in detail the circumstances connected the refund of toll amounting to Rs 150-12-0 to Military Department

NOTES AND ORDERS

Draft docket asking the President to record the steps taken by him towards recovering the amount from the Contractor as recorded by the Board ~~in~~ and Mk. Calling for additional information is submitted

17/1/06

17.1.06

NOTES—First sheet. 1/168

MGGPB—20,000—17 2-05

ML File No 372 of 1905

Serial No

2 3 Docketed No 7713 dated the 25th Jan 1906 to the President

Calls for certain additional information in the matter

3 4 Letter No 330 dated the 28th Feb 1906 from the President

Submits the additional information called for

5 From the President's report it will be seen that the Toll Contractors have written permission from Mr Sparkes, former President, to collect toll on all private cars and Contractor's cars hired by the Military department, but that there is no authority beyond precedents for refunding the amount out of Imml funds to the Military Department

6 Private Cars hired by the Imml Dept do not seem entitled to exemption from toll under section 51 of the Imml. Regulations when they do not accompany the troops on their march

The permission granted by Mr Sparkes to the Toll Contractor thus seems to be Correct but it is not clear why the Municipality should reimburse the

NOTE—Contn sheet

GPB– 50 000 –23 10 05

S 12]
neral and Revenue Secretariat.

Rnl File No 372 of 1905

Serial No

Military Depth and of Rural: funds to the extent of the tolls recovered on the Rondale roads.

Submitted for orders

Mal sm 6. Putup a draft calling for Mr Sparkes endorsement referred to with connected papers and also for information as to how private & Contractors carts hired by the Military Department are dealt with by the C & M Station Municipality

HASH 5/3/06 — JB 15/3/06

7 Draft docket submitted to Secty

Mal sm 16/3 — JB 17/3/06

8 — Secy 20/3/06

4 9 Docket No 9809 dated the 22nd March 1906 to the President

Calls for Mr Sparkes endorsement as also information as to the practice prevailing in the C & M Station Municipality

5 10 Letter No 415 dated the 4th May 1906 from the President

Submits in original the office Copy of the Endorsement referred to as also a Copy of the C & M Station Rural. President's letter

Note—Contn sheet

GPB—50,000—23 10-05

S 12]
eneral and Revenue Secretariat.

Mil File No 37⅔ of 1905

Serial No

furnishing the required information
Prisable Cards issued by the
Military Department for Conveying
articles belonging to that Department
are these, in the opinion of the Advocate
General of Madras exempt from pay-
ment of toll. And the toll Contractor
hence all along been levying toll on
such Cards on the strength of an Endt
issued to him by our Chairman. The
Municipality has, thus been, obliged to
refund the amount to Military Depart-
ment out of its own funds for the mere
reason that the Contractor has been autho-
rized to have recourse to an illegal
levy.

Mil Conf
16/5/06

12. Draft order as per Assistant
Secretary's minute being is submitted.

Mil Sec
25/5/06

Subd to Secty
25/5/06

13. Draft submitted to the
Commissioner

Councillor
28.5.1906

14. I concur in the view taken above - But
the proposed draft requires to be recast. I put
up a

277
25/5/06

NOTE—Contn sheet

GPB—50,000—23 10 05

File No 372 of 1905

Serial No

W/ a revised draft for Consideration
[illegible]

15 In another note placed hereunder underneath this, the Councillor was pleased to call for a copy of the Advocate-General's letter containing his opinion on the subject. The same has been received with President's letter No. 494 dated the 28th June 1906 and is herewith submitted.

[illegible] Secy to 1st Councillor.

[illegible]
6/7

500
6/7/1906

Seen - The revised draft initialled by me on the 6th instant may be approved -
[illegible]
6/7/06

1426
16/7/06 Seen [illegible]
16/7/06

Dewan's order

The main question in the file is the exemption from toll of carts employed by the British Military authorities & has arisen out of certain refunds granted to such authorities by the Municipal Presidents - Article 9 of the Instrument of Transfer

refund from Municipal - Chest on account respondence regarding the Bakthi has

Note—Contd abcot

GPB—50,000—23 10-05

wrong -
[illegible]

Serial No

provides for the establishment of Cantonments in the state and in that connection lays down that "on goods imported or purchased for that purpose no duties or taxes of any kind shall be levied without the consent of the British Govt." It appears to the Dewan that this clause covers the case in question & that references to Tr ops or Military in other rules — such as the mun. Regns &c — can only be taken to refer to Mysore troops, unless British troops are also specifically included in the context. These points do not appear to have been considered in this case, as can be seen from the office note

Again the draft proposes to amend & elucidate clause (1) of rule 11 of the toll gate sale Notn. That clause refers to vehicles & animals belonging to Govt. or the Municipal Commrs & has no reference to the Military (Mysore or British). Clause 2 of rule 11 relates to exemption of the Cant & animals used by the Military, & in the

Note—Contin sheet

GPB—50,000—23-10-03

Jud File No 372 of 1905

Serial No

circumstances of this case, it appears to the Dewan that it is this clause that should be amended so as to ~~provide~~ exempt from toll, carts hired or owned by the military – British or Mysore – used for the carriage of military stores.

In these circumstances the proposed order seems to require reconsideration & the file is therefore returned to the Secretariat for re-examination & submission in due course.

By order
CS Balasundaramayya
Under Secretary on
Duty with the Dewan

Mysore
31 Aug 06

Submitted to Hon Councillors.

Item No 2 in para 11 of the Notification relating to the Toll contract may if approved be amended as shewn in pencil

4/9/06

Please see my note dated 4/9/06, which I have added with Dewan's date in my draft dated 6 June last. This I think will meet the case more closely

2397
25/9/06

Please issue typed draft

Approved by Dewan

Note—Contn sheet

GPB—50,000—28-10-05

G R S 12]
General and Revenue Secretariat.

File No 372 of 1905

Serial No.	
6	To The President, Municipal commissioner Bangalore city No. 13066 Dt 26-6-06 Requests that a copy of the letter of the Advocate General, Madras in the matter of the levy of toll on Military carts said to have been forwarded to him by the President of the Cantonment municipal commissioner may be submitted at a very early date
7	From the President, Municipal Commissioner Bangalore city No. 1494 Dt 28-6-06 Submits copy of the opinion of the Advocate General, Madras, Dated 21st March 1900 in the matter of the levy of toll on military carts.
8	To The President Bangalore city Municipality Comptroller & President of other Municipalities in the State With ref to correspondence ending with Sl. 7 above, (1) Directs that clause 11 (2) of the toll gate rules which govern such cases above referred to in the above correspondence be amended as follows "All Vehicles and animals (whether owned or hired) used for the passage of troops and of stores & equipages belonging to or required for the use of the Military (whether

Note—Contd sheet

G.P.B—50,000—23-10-05

(x 12]
eral and Revenue
Secretariat

File No 372 of 1905

Serial No

Mysore or British) or Government on their March" etc (II) Observes that the action of the President in having directed the refund of the amount in question from the Municipal Funds is not justifiable & as the refund has been finally ordered, Considers that no further action on the matter are at present called for

& (III) requests the President to see that the production of the certificates of the Fund referred to in the letter of the President of the Civil and Military Station Municipality which is now before the Board's Cash of the Fund under reference are to pass without payment through the Durbar toll-gate

Secy
Pres
Secy

x—Contn sheet

GPB—50 000—23 10 05

Draft

Progs of the Govt of H H the
Maharaja of Mysore

Read

Letter No 268 dated the
23rd December 1905 from the
President of the Municipal
Commission Bangalore City,
explaining in detail the
circumstances connected
with the refund of toll
amounting to Rs 150-12-"
to the Military Department,
referred to in Resolution
No 1 of the Boards Proceedings
at their meeting held on
the 23rd November 1905

2 Correspondence
ending with letter No 415
dated the 4th May 1906 from
the same Officer furnishing
additional

additional information
on the matter

Order thereon No 8

The practice of
repaying from Municipal
funds to the Military
Department, tolls paid
by that Department at the
Municipal toll gates is
correct when the tolls are
collected by departmental
Agency But such payment
without a corresponding
recovery from the Toll Collector
when the tolls are collected
by a Municipal Contractor
is manifestly wrong
The three cases of 1903 & 1904
Cited by the President

in his letter No 330 dated
28th February 1906 in which
the amounts refunded
have aggregated Rs 56
are regrettable, all the
more because the error
(as stated by the President) → does not appear ~~(as stated by the President)~~ to have
been noticed either
by the Audit Committee
or the Comptroller that
these cases should have
formed precedents for
the similar payments
aggregating Rs 150-12-0
now under notice is,
under the circumstances
an admissible excuse
but not an adequate
justification

2 The endorsement
No 42 dated 5th Nov 1902
issued above the Signature
of Mr P Belpre for President
can at the best be
regarded as an inter-
pretation of the terms
of the Toll Contract It
was authority for the
Contractor to levy tolls in
the Cases authorised by it
It does not constitute a
justification for refund
from Municipal funds
of the tolls levied by the
Contractor under its cover
3 As to the legality of
the Contractor levying
tolls

tolls on carts that are
not Govt property but
hired to carry articles
belonging to Govt. The
interpretation conceding
such right contained in
the aforesaid endorsement
may have been acceptable
at the time, because it
was then approved by two
Municipal Commissioners
with legal attainments like
Messrs D Venkata Ramayya
and L Krishna Murty. But
it is now found to be
different from the opinion
of the Advocate General
of Madras furnished to
the Corn authorities and
courteously communicated

Communicated by the to the President
Secretary of the President of the City
of the Said Municipality
Municipality.

Capality. The present
President of the City Muni-
Capality is therefore requested
to act upon the latter
interpretation and to
Cancel the aforesaid
endorsement.

4 The principle regulating
the exemption from toll
is that the Cart or
Animal to be exempted
should itself belong to
the privileged class
or carry property belonging
to the privileged class.

Mrs

This should be made clear by amending item No 1 in para 11 of the Toll Gate Contract so that the first part of it may read as follows —

Vehicles bearing municipal numbers either of the City or of the Cantt and Military Station or possessing passes of the City-Municipality and on carriages or carts, and animals, the property of, or employed by, Govt or the Municipal Commission or licensed or registered by the said Commission, or employed by Govt or the Municipal Commissioner for conveyance of their property

Fort Agra 16-1-20

Secretary —

In this connection the Govt of India Government includes the Govt of His Highness the Maharaja of Mysore as well as the British

1

The President Municipal Council, Bangalore City, returning the enclosures to his letters Nos 330 and 415 dated 28th Feb 06 and 4th May 1906 respectively

2 The Dewan & Other Municipalities

3 The Comptroller

BANGALORE CITY MUNICIPALITY

Notice dated 2nd May 1905

The public are informed that the right of collecting tolls on vehicles and animals entering the City at the toll gates noted in the margin, will be sold (subject to the provisions contained in Sections 49 and 51 of the Municipal Regulations) in public auction at 3 P M, on Saturday the 17th June 1905 at the City Municipal Office, District Office road

1 Mysore road toll gate
2 Magadi do
3. Subzdar Chattram road toll gate
4 Hellary road toll gate
5. Hosur do
6. Upparahalli cart-track toll gate.
7 Kankanhalli road toll gate

2. The lease will cover a period of one year commencing from the 1st July 1905 and ending on the 30th June 1906

3 The contractors who purchase the right must collect tolls at the rates mentioned in the schedule annexed on in-coming traffic only and at no higher rates, and shall be bound to furnish receipts in the form prescribed by the President, duly dated, to the parties paying tolls.

4 The President reserves to himself the power of refusing or accepting the highest or any bid that may be offered.

5 The highest bidder shall be required to deposit twenty-five per cent of the purchase money as soon as the sale is closed, to execute a contract bond within seven days of acceptance of sale, and to make a further deposit making the total deposit amount to one month's instalment.

6 When such deposits shall not be made, or when the bidder fails to execute the contract bond within the time fixed, or when he fails to make payment of the monthly instalment, the contract shall be re-sold at the expense and risk of the first purchaser, who shall, however, be not permitted to claim any profit arising from such re-sale, and the deposits made by him forfeited.

7 The amount of bid that will be accepted will be payable in twelve monthly instalments, each instalment being paid before the 10th of the month for which it is due, the deposit held for the contractor being taken in payment of instalment due for June 1906

8 The contractors are also bound to keep an account showing the daily collections, etc, in the form specified by the President, and it shall be submitted by the contractors every month for the inspection of the President, and shall also be open to inspection by the Municipal authorities.

9 They shall also be bound to keep true account of traffic passing through the gates as specified in para 8, for which purpose they shall bind themselves to maintain at their own cost a resident mutsaddi at each toll-gate.

10 The contractors will have the use of existing toll-houses and gates, and they will be required to keep them in good order

11 No tolls will be levied on the following —

(1) Vehicles bearing Municipal numbers either of City or of Civil and Military Station or possessing passes of the City Municipality and on carriages or carts, and animals, the property of, or employed by Government or the Municipal Commission or licensed or registered by the said Commission, and no more than one payment of toll shall be demanded, for and in respect of, any carriage or cart or animal, in any one period of twenty-hours counted from midnight to midnight

(2) All vehicles and animals used for the passage of Troops and Military or Government Stores and equipages on their march, or of Military, Civil or Police Officers on duty, or of any person or property in their custody

12. Further particulars may be had on enquiry at the City Municipal Office, District Office road —

SCHEDULE

		Rs	a.	p
On every	four-wheeled carriage on springs	0	4	0
Do	two-wheeled do	0	2	0
Do	hackney or cart drawn by men, bulls, bullocks, horses, asses or mules, laden	0	2	0
Do	do not laden	0	1	0
Do	buffalo, bull or bullock laden	0	0	6
Do	horse over 13 hands, laden or ridden	0	1	0
Do	horse of or under 13 hands, laden or ridden	0	0	6
Do	horse over 13 hands, not laden or ridden	0	0	6
Do	elephant	0	8	0
Do	camel	0	1	0
Do	bicycle or tricycle	0	1	0

A S. NAGAVKAR, *President*

Jake Nolte

B M 109] Rle 372-05. 25482 SE (1)

OFFICE OF THE MUNICIPAL COMMISSION,

No 268

City, Bangalore, 23 December 1905. 3rd January 1906

From

THE PRESIDENT,

Municipal Commission,

Bangalore City.

To

The Secretary to the Government of H H the Maharaja of Mysore,

General and Revenue Departments,

Bangalore.

Sir,

With reference to the concluding part of your Memo. No 5949/Rl.(4-05)-14 dated the 6th. Instant, I have the honor to state that the Chief Supply and Transport Officer and certain other Officers of the Imperial Military Department claimed refund of toll amounting 150-12-0 as detailed in the margin, which was recovered by the Toll Contractors on private carts hired by the Military Department for conveying articles belonging to that Department. The Toll Contractors were asked to refund the amounts severally collected by them But they objected on the ground that the levy of toll on private and contractor's carts was proper. This was communicated to the Officers concerned and they were asked to quote the authority for claiming the refund. After some correspondence with them, I was satisfied that the claim was correct. At the same time it was found that the contractors could not be properly called upon to refund the amounts they collected toll on the carts [illegible]

17-10-1905	Officer in charge of Military Farm--Refund of Toll gate fees .	70-10-0
20-10-1905	Commandant, XXXIII Lancers--refund of	do-- 22--0-0
---do--	Assistant Overseer in charge of Military Farm	44--0-0
---do--	President, Civil and Military Station Municipality on carts covered by Free Pass-------	14--2-0
	Total--	150-12-0

2

question under the authority of the former President and that similar refunds had been granted before In these circumstances I ordered the refund of the amount from - unicipal Funds

2 The Military Department have since been communicated their intention to supply the carts engaged by them with printed Passes signed by them, so that they may be exempted from toll while passing the Toll Gates and the Contractors have also been instructed not to levy tolls on such of the carts as produce the Passes

I have the honor to be
Sir,
Your most obedient servant,

A Wagorker
PRESIDENT

1905-06 ✓

Sir

From

Secy to the Govt of His Highness
the Maharaja of Mysore,
Genl and Rev Depts

To The President
Mb: Commission,
Bangalore City

Dated
Despatched
Received 25 January 1906
General No 2113
and No (172-7)(2)

I have the honour to acknowledge that the President's request is not full and self contained and I request that the

the following
information may be
submitted together with
the records of the case
and of the precedents re-
lied on by the President: (1) also a copy of the notice of the collection of L
(1) When were the bills
levied on the cards referred to?

(2) Is there no stipulation
in the binding the Contractors
had to collect bills on
Military cards and cards
Conveying articles belonging
to Military Departments? If there is, why was the amount not recovered from the Contractors.

(3) If so, why should not
the President date steps (3) What is the authority
to recover the amount from under which the
the Contractors as resolved refund was made
by the Board? by the President without the sanction of Govt

Why order?

18-1-1906

Seek

17.1.06 22.1.06

Jan 1
23/1

Rel 372-05
B M 109] SC (2) 26967

OFFICE OF THE MUNICIPAL COMMISSION.

City, Bangalore, 28th February 1906
3rd March 06

No 330

Encl 7 files & a Sale Notice

From

THE PRESIDENT,

Municipal Commission,

Bangalore City

To

The Secretary to the Government of H H the Maharaja of Mysore,

General and Revenue Departments,

Bangalore.

Sir,

With reference to your docket No. 7713/Municipal (372-05)-2 dated the 25th. Ultimo, calling for further information in the matter of the refund of toll of Rs. 100-12-0 - made to the Military Department, I have the honor to report as follows --

(1) The exact dates of collection of toll on the carts hired by the Military Department cannot be given as the receipts were sent to the Toll Contractors who were asked to refund the amounts. From the bills received from the Military Department, it is found that collections were -- made from December 1904 to May 1905

(2) The stipulation regarding military carts is contained in Para 11, Clause (2) of the Sale Notice which states that all vehicles and animals used for the passage of troops and Military or Government stores and equipages on their march etc , are exempted from payment of toll. It was not clear that private carts employed by the Military Department for conveying articles belonging to that Department and that Contractor's carts which supplied grass came under this exemption The Contractors were, however, asked to refund the tolls on these carts. They objected to do so on the authority of an Endorsement which was issued

to

6

to the Toll Contractor of the time during the Presidentship of Mr Sparkes after consulting the legal Commissioners of the Board and which gave the Contractor permission to collect toll on all private and Contractor's carts hired by the Military Department Their objection led to further correspondence both with the Contractors and the Military Department I was at - last satisfied that the claim made by the Military Department was correct and it was accordingly decided to refund the amount.

(3) There was no authority for making the refund without Government sanction other than the previous instances of such refunds made by my predecessors in Office as detailed in the margin (a) to the Chief Supply and Transport Officer, Bangalore District, which were not objected to either by the Audit Committee or by the Comptroller

Date	Amount
27/3/1903	Rs 18-14-0
26/2/1904	Rs 29--8-0
2/5/1904	Rs 7-10-0

2. The records (a) connected with the refund of Rs 150-12-0 in question as also of the previous refunds referred to above together with a copy of the sale notice regarding collection of toll are herewith submitted as called for

I have the honor to be

Sir,

Your most obedient servant,

A V Nagarkar

President

(a)

1	File relating to the refund of Rs 70-10-0 to the Officer in charge of Military Farm			
2	Do Do to the Commandant of Lancers	Rs	22--0-0	
3	Do Do to the Assistant in charge of Military Farm	Rs	44--0-0	
4	do do Officer Commanding Station Supply thro' C & M Station Municipality . .	Rs	14--2-0	-3-0 received in Dec
		Total Rs	—	

1905-06 7

From

Secy to the Govt of His Highness
the Maharaja of Mysore,
Genl and Rev Depts

To

The President of
the Mund. Comm
Bangalore Ci

Dated
Despatched
Received 22nd March 1906
General No 9802
Mil No (27-65-4)
Index No

His letter no 330 dated
the 28th February 1906 on
the matter of the refund
of toll to the Military
department

Has the honour
to request the President
to be good enough to submit
Mr Sparke's endorsement
referred to, together with
information as to how
private and Contractors'
carts hired by the Mili
tary Depts are dealt w
ith.

C R - A

by the C and M Station
Municipality

By order

20/3/1906

Leeky

17/3/06

eg 16/3

Jpd 21/3

MPM/3

B M 109] mc 372-05 / R 5 D8548

OFFICE OF THE MUNICIPAL COMMISSION,

City, Bangalore, 4th May 1906.

No 415
Encl 6 papers

From

THE PRESIDENT,

Municipal Commission,

Bangalore City.

To

The Secretary to the Government of H H the Maharaja of Mysore,

General and Revenue Departments,

Bangalore.

Sir,

With reference to your docket No 9809/M1.(372-05)-4 dated the 22nd. March last in the matter of the refund of toll to the Military Department, I have the honor to submit herewith in original the office copy of the Endorsement referred to (together with the papers relating thereto) issued to the Toll Contractor during the Presidentship of Mr. Sparkes together with copies of this office letter No. 346 dated the 28th. March last to the President of the Civil and Military Station Municipality and of his reply No. 385 dated the 24th. Ultimo as to how private and contractor's carts hired by the Military Department are dealt with by the Civil and Military Station Municipality.

I have the honor to be
Sir,
Your most obedient servant,

K. Nagarkar

President.

Letter No. 346 dated 28-3-1906 from the President of the Munl. Comm , Bangalore City, to the President, Ml. Comm , C & M Station, Bangalore.

Sir,

I have the honor to request you to be so good as to inform me whether toll is levied in the C & M Station Municipality on private and contractor's carts hired by the Military Department or whether they are exempted from -payment in such instances as the following --

1. Straw or hay belonging to private men being carried on private carts for sale to the Military Dept

2. Hay belonging to the Military Dept. being carried on private carts or a contractor undertaking to remove hay from a place outside Bangalore and delivering it to the Military Dept.

3. Contractor undertaking to supply empty carts for the carriage of military stores and luggage Is toll levied on these empty carts before entering Bangalore and before they are taken possession of by the Military Dept.

4. Is production of licenses demanded at the toll gates. Supposing they are not produced, is toll levied.

I have etc.,
Sd. A.S. Nagavkar,
President.

Letter No. 365 dated 24-4-06 from the President of the C & M Station Municipality, to the President of the Bangalore City Municipality.

Sir,

With reference to your letter No. 346 dated 28-3-06, I have the honor to invite a reference to the opinion of the Advocate-General, Madras, copy of which was forwarded with my letter No 4613 dated 2-2-06

2. According to this opinion, no toll could be levied on vehi-

4

vehicles conveying military stores either on their journey for delivery of the stores to the Military authorities or on their return journey after delivering the same.

3. But with a view to prevent loss of Municipal revenue, the practice which was obtaining in this Municipality when the tolls were worked departmentally, was to levy tolls at the time the carts entered the station and to refund the same afterwards on application by the Military Dept. In order to facilitate such application and to render check possible, a special form of toll tickets was used for issue to these carts and these were not -- pasted on to the carts as in the case of other carts, but were handed over to the cartmen for submission by the Military Dept in support of their application.

4. As for the several hypothetical cases referred to in your letter -

1. The straw or hay not being Military stores at the time they were brought into Bangalore, toll would be leviable

2. This is clearly exempt from payment of tolls, under the Advocate General's opinion.

3. They are unaoubtly carts employed by Govt, in Military service, and as such would be exempt, if covered by certificates from the Military Deptt.

4. Production of Military certificates at the toll gates is necessary for the protection of municipal interests and toll is levied on all carts not covered by such passes.

I have etc.,

Sd. P.L. Moore, President

'COPIES'

A.C. Wagonker

President.

24/

Straw or Hay belonging to Innkeepers carried on private carts for sale by Mil & Dept

Hay belonging to Mil & Dept carried on private carts or by Contractor undertaking to remove hay from place outside Navy Yard by Mil & Dept

Contractor undertaking to supply empty carts for the carriage of Mil & Dept Stores - Toll levied on these empty carts - but Dept entry pass & Dept Pass they are taken from Mil & Dept

In production of Receipts for Toll gates - Supposing they are not produced, is Toll levied -

1 Toll is leviable on Straw or Hay sent to Mil Depts when brought into charge

2 Exempt from Tolls under Statute 43 Geo III

3 Not liable except if covered by Certificates from Mil & Dept: they are carts employed by Govt in Mil & Navy

4 Production of Mil & Dept Pass is necessary in Mil Contracts

Toll is levied on all carts not covered by such Passes -

Capab President's Comm-
ission with this letter
dated the 21st Feb:
) may be submitted
a very early date
by order"

21/6/16.
for Secy

Dec 2016

Typed 23/6
Dec 23/6

See Urgent

1905 A of

From

Secy to the Govt of His Highness
the Maharaja of Mysore,
Genl. and Rev Dept.

To The President,
Munl. Commissioner
Bangalore City

Dated

Despatched

Received 26th June 1906

General No. 13066

Genl No (372-05)6

Enclosure No

His letter dtd 4th of the 4th May 1906 relative to the refund of toll to the Military Department.

Referring to the above has the honour to request that a copy of the letter of the Advocate General Madras in the matter of the levy of toll on Military Carts (said to have been forwarded to him by the President of the Cd Dn Stores Municipal

B M 109]

mil 372-05
897

OFFICE OF THE MUNICIPAL COMMISSION,

City, Bangalore, 28/30 *June* 190 6.

No 494
Encl' one D 32
From

THE PRESIDENT,

Municipal Commission,

Bangalore City.

To

The Secretary to the Government of H. H. the Maharaja of Mysore,

General and Revenue Departments,

Bangalore.

Sir,

With reference to your docket No. 13066/Ml. 372-05-6 dated the 26th Instant, I have the honor to submit herewith a copy of the Madras Advocate-General's opinion dated the 21st March 1900 in the matter of the levy of toll on Military carts, as called for in the above.

I have the honor to be

Sir,

Your most obedient servant,

A. Nagarkar

President.

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No. 574L-23rd April 1900

Government of Madras.

Local and Municipal Departme

Read the following papers.

From R.C.C Carr Esqre., I.C.S., Acting Collector of Bellary to the Secretary to Govt, Local & Municipal Department, dated 27th January 1900,Ref-on C No. 73.

I have the honor to request the orders of Govt on the ques--tion raised by the Executive Commissariat Officer, Bellary, in the correspondence herewith submitted. The question is whether Contractor's carts carrying grass from the Govt Ramnahs to the Commissariat Office at Bellary are exempt from payment of tolls under section 91(3) of the District Municipalities Act.

2. The Govt. Ramnahs are situated near Sultanpur, a village in the Hospet Taluk, and the conveyance of grass from the Ramnahs to the Commissariat Office in Bellary has been let out on contract for the current year. Last year the grass was supplied by the forage agent, a paid servant of the Commissariat Department, and the carts hired by him were allowed a free passage.

3. The Executive Commissariat Officer contends "that the grass is Govt. Grass and grown on Govt lands and brought into Bellary for the feeding of Govt. horses, that the conditions under which the grass is cut and removed by the contractors are precisely similar to those formerly made by the Commissariat Agent, and that as forage agent's carts were exempted from the payment of tolls, the contractor's carts are also entitled to a similar exemption". I do not think that this contention can hold good. The Municipal Act, as not amended, makes it clear, that tolls are levied on vehicles or animals and that these can only be exempted when "conveying troops, Military Stores andbuggage----

26

or property in the custody of (Military) officers or servants" The carts in this case are contractor's carts and the property is in the custody of the contractors and not of any Military Officer or servant. The only question is whether or not the grass can be considered to be "Military Stores" before it is delivered into the custody of the Military Officer. In my opinion it cannot be so considered. It appears from the records in this office that in the year 1890 and apparently also in 1895, tolls were being paid by contractors on their carts when bringing this grass.

4. The marginally noted orders of Govt. declaring Govt. carts and carts hired by Govt. to be exempt from the payment of tolls were passed under the Old Municipal Act but the position appears to be unaltered. The amended section is framed in clearer language, but its effect is the same. If the Govt. does not accept the view that tolls should be levied on these contractor's carts when carrying grass from the Ramnahs, I request orders as to whether the carts should also be exempted on their return journey to the grass farm.

G.O.Mis.No.1755, D/15-12-1891
G.C.Mis.No.236, D/4-2-1892.

Endorsement No. 295 dated 14-3-1900.

Referred to the Advocate General for favor of opinion.

Sd H.Tremenheere,

Secy. to Govt.

To--The Govt. Solicitor.

From the Govt. Solicitor, Madras, dated 26-3-1900, No 215.

Abstract-Forwarding the follg opinion of the Advocate General dated 21st March 1900 --

O p i n i o n.

Under the District Municipalities Act, as amended by Act III of 1897, it makes no difference whether grass from Ramnah hills is conveyed to the Commissariat by contractor's carts or forage agent's carts or even by carts belonging to Govt. The exemption from payment of tolls, so far as the present reference is concerned is only in respect of vehicles conveying Military Stores I may

also mention that section 143 of the Army Act (44 and 45 Victoria C 58), which is also applicable to India, has a bearing upon the the question under reference and that is not and cannot be affected by the District Municipalities Act or the Local Boards Act. Section 143 of the Army Act provides, among other things, that all carriages belonging to Her Majesty or employed in her Military service, when conveying stores or returning from conveying the same, shall be exempted from payment of any duties of tolls in passing along, or over any turnpike or other road or bridge, though such duty or toll may be otherwise demandable by virtue of any Act of Parliament already passed or hereafter to be passed or by virtue of any Act, ordinance, order or direction of the Legislature or other authority in India. So far as exemption from payment of tolls when conveying stores is cocerned, assuming that the grass under reference to be "Military Stores", there is substantially no difference between the District Municipalities Act and the Army Act, but the Army Act has a special bearing upon the question under reference in regard to liability to the payment of tolls in respect of the carts in question on their return journey to the Grass Farm after unloading the grass at the Commissariat In my opinion the case turns entirely upon the meaning of the word "stores" occurring in section 143 of the Army Act and in section 91, clause (3) of the District Municipalities Act. If grass cut and carried from a Govt. farm to the Commissariat as forage for the regimental horses can be regarded as Military Stores, I am of opinion that no toll can be ~~xxxxxxxx~~ levied either under the District Municipalities Act or the Local Boards Act, either when the carts convey the same to the Commissariat or when the carts are on their return to the farm empty. The expression "Military Stores" is not a legal expression and it is only with considerable diffidence that I can express an opinion as to the meaning of that expression in common parlance, especially as understood in Military Circles.

2. In the District Municipalities Act and the Local Boards Act

the expression is vehicles conveying "Military Stores" and the Army Act, the expression is "carriages employed in Her Majesty's Military service when conveying stores". In my opi the meaning is the same in both cases.

3. One of the meanings of the word "Stores", which is the meaning that is relevant to the question under reference, is "Supplies" as of "provisions, arms, ammunition and the like", the word "supply" means "the food and the like which meets the daily necessities of an army or other large body of men, sto "(vide Webster's Dictionary and Century Dictionary) I think that forage for regimental horses will fall under the head of "the like" in the meaning of "stores", and under the head of "the like" which meets the daily necessities of an army in the meaning of the word "supply".

4. The circumstance that the grass which is conveyed by the vehicles in question is Govt. grass grown and cut on Govt. farm does not appear to me to make any difference. Military stores conveyed by vehicles which are exempted from payment of tolls would generally have become the property of Govt. before being conveyed to the Commissariat and it can make no difference whether or the same became property of Govt. by purchase from the market or because they were the property of Govt. otherwise than by purchase. Bearing in mind the policy of Legislature in making the exemption in question, it does seem reasonable that vehicles while conveying either daily or other periodical supply of forage for delivery at the Commissariat for regimental purposes and on their return should be exempted from payment of tolls.

Sd V.Bhashyam Iyengar.
Offg Advocate General.

Order No. 574 dated 23-4-1900

The Advocate General's opinion read above will be communicated to the Collector of Bellary.

2. It is observed that under section 91 (1) of the

District

District Municipalities Act, tolls are leviable only when a cart enters and not when it leaves, the Municipality

Sd/ H.Tremenhiere,
Secy. to Government.

'COPIES'

P.B.Wagaskar
President

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16/11

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read -

Correspondence ending with letter No.494, dated the 29th June 1906, from the President of the Bangalore City Municipal Commission regarding the exemption from payment of tolls of carts hired by the British Military Department for the carriage of stores for the use of the department.

Approved by the Dewan 6/11/06

Order thereon - No 3877-87 dt 13.11.06
Rec 372 08-8

The President of the Bangalore City Municipal Commission having ordered the refund to the British Military authorities and others of Rs150-12-0, as detailed in the margin, collected by the toll contractors between December 1904 and May 1905, on private carts hired by the Military Department for conveying articles belonging to the department, the Board in an ordinary meeting held on the 23rd November 1905, observed, while passing the accounts of the Municipality from February to June 1905, that steps should be taken to recover from the toll

1 17-10-05. Officer in charge of Military Farm - Refund of Toll Gate fees	-		70-10-0
2 26-10-05. Commandant, 33rd Lancers	-do-	-do-	22- 0-0
Asst. Overseer in charge of Military Farm	-do-	-do-	44- 0-0
President, C & M Station Municipality, on carts covered by free passes	-do-	-do-	14- 2-0
			150-12-0

contractors the aforesaid amount as the refund thereof to the Military authorities was irregular. The President who was called for an explanation represents that the refund was made on the ground that the contractors objected to the legality of their being called upon to refund the sum in question and that he felt convinced that they could not be called upon to do so, as the amount was collected by the contractors in pursuance of the orders of former Presidents and that refunds granted on 2 or 3 previous occasions to the Chief Supply and Transport Officer of the Bangalore District had not been objected to either by the Audit Committee or by the Comptroller. The President has also forwarded a copy of the Madras Advocate General's opinion dated the 21st March 1900 bearing on the question of levy of toll on carts hired by the Military as well as a letter from the President of the Civil and Military Station Municipality in regard to the practice prevailing in that Municipality concerning the levy of tolls on private and contractors' carts hired by the Military Department and entering within the limits of that municipality.

2. The opinion of the Advocate General which is based upon section 143 of the Indian Army Act is to the effect that vehicles whether owned by the Military or hired from private persons should be exempted from payment of tolls both while conveying either daily or other periodical supply of

the Government of His Highness the Maharaja of Mysore are pleased to direct that clause 11 (2) of the toll gate rules which governs such cases be amended as follows:-

"All vehicles and animals (whether owned or hired) used for the passage of Troops and Military (whether Mysore or British) or Government stores and equipages on their march, or ~~on~~ ~~duty~~ shall be exempted."

6. The Government desire at the same time to observe that the action of the President in having directed the refund of the amount in question from the Municipal funds without recovering the same from the contractors, on the strength of certain precedents, is not justifiable. But as the refund has been finally ordered, the Government consider that no further orders in the matter are at present called for.

7. To safeguard the interests of the Municipality, the President will be requested to see that the production of the certificates of the kind referred to in the letter of the President of the Civil and Military Station Municipality is insisted on before the carts of the kind under advertence are allowed to pass without payment through the Durbar toll gates.

Secretary.

To

The President of the Bangalore City Municipality.

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Secretary.

To

The President of the Bangalore City Municipality.